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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,985	03/22/2004	Jack A. Parise	451590	8944

27717 7590 10/02/2006
SEYFARTH SHAW LLP
131 S. DEARBORN ST., SUITE2400
CHICAGO, IL 60603-5803

EXAMINER

HANSEN, JAMES ORVILLE

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 10/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/804,985	Applicant(s) PARISE ET AL.	
	Examiner James O. Hansen	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-20,23,24 and 26-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 26 is/are allowed.
- 6) ☐ Claim(s) 17-20,23,24 and 27-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 21, 2006 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:
- The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claim 30 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In Claim 30, the phrase "the support" does not have a proper antecedent basis. Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
5. Claims 17-20, 23, 24 & 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kadleck et al., [U.S. Patent No. 5,443,311] in view of British publication 477,158 [known hereafter as GB'158] and further in view of Boesvert [U.S.

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Patent No. 5,245,801]. Kadlecek (figures 1-6) teaches the use of a tool cabinet (11) for securing tools, and a locker (45) suspended on and connected with the tool cabinet, the locker having an interior space in which objects (drawers for example) may be moved into and out of, and a side opening (opening for drawers) for providing access into the interior space. A tool may be associated with the object and the object may be moved into and out of the space as readily apparent to the examiner. Kadlecek teaches applicant's inventive steps as disclosed above, including providing rollers (17) on the cabinet; but Kadlecek does not show the locker as having an "open bottom" or show the object as being a cart or show a lockable door. GB'158 (figures 1-2) is cited as an evidence reference to show that a locker having an open bottom, a doorway, doors for closing the doorway and a cart to be moved in and out of the locker was known in the art. Accordingly, the position is taken that it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the locker of Kadlecek with a locker having the characteristics provided by GB'158, since this arrangement would enhance the usage of Kadlecek's tool cabinet since the addition of the cart would increase functionality of the assembly due to the carts ability to be moved both as a unit with the cabinet and locker and individually depending upon the needs or application of the user. As to claim 20, the locker further includes a retractable shelf (broadly viewed as the bottom of 13 for example) and a storing device (broadly viewed as the side frame members of 13 for example) on the shelf, wherein the shelf with the device can be retracted when the doors are open. As to claim 28, a tool may be placed on the cart, the cart may be moved outside of the locker, and the cart may be housed in the interior space of the locker as readily apparent to the examiner. As to a lockable door, Kadlecek in view of GB'158 teach

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applicant's inventive steps as noted above, but do not show a lock on a door for locking and unlocking purposes. Boesvert (figures 1-7) teaches the use of lock (fig. 5) for locking together doors of an open-bottom locker that encloses a cart (fig. 4). As such, the position is taken that it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate a lock to the prior art's assembly as taught by Boesvert because this arrangement would provide a means of restricting access to the cart to all but the authorized user when the cart is placed within the locker and the lock activated.

Allowable Subject Matter

6. Pending further review and consideration, Claim 26 is tentatively allowed.
7. Pending further review and consideration, Claim 30 is tentatively allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Response to Arguments

8. Applicant's amendments and arguments relating to claim 17, filed June 21, 2006, with respect to the obviousness rejection of Little in view of Boesvert have been fully considered and are persuasive. As such, the rejection has been withdrawn.
9. Applicant's arguments concerning the remaining applied references have been fully considered but they are not persuasive. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge

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generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the following positions are set forth: 1) the cited references have been considered as a whole and are deemed to suggest desirability and thus the obviousness of the proposed combination, 2) the proposed modifications do not render the prior art unsatisfactory for its intended purpose and do not change the principle operation of the operation (Kadlecek when modified still functions as a mobile tool cabinet assembly), 3) the references are all analogous prior art i.e., in the field of applicant's endeavor, and 4) common knowledge in the art is deemed the source of rationale supporting a rejection under 103 as showing that some advantage or expected benefit would result from the combination of references. Accordingly, the proposed combination is deemed appropriate.

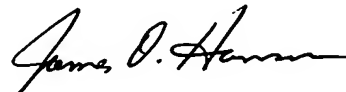
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James O. Hansen whose telephone number is 571-272-6866. The examiner can normally be reached on Monday-Friday between 8-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



James O. Hansen
Primary Examiner
Art Unit 3637

JOH
September 25, 2006